Appellate Leave

Capt David Cox
NAMALA
3 Feb 04

NAVY AND MARINE CORPS
APPELLATE LEAVE ACTIVITY
PALLAQUA A IRITICO SEPARATUR

NAMALA MISSION

Administer centralized appellate leave/tracking for all Navy & Marine Corps members on appellate leave and those members assigned to the Federal Bureau of Prisons who are awaiting results of appellate review, and to perform such other functions and tasks as directed.

NAMALA FUNCTIONS

- Provide on-site training
- Monitor case status of Appellants on
  Leave or guests of FBOP
- Monitor case status of Parollees &
  Supervised Releasees
- Validate requests for renewal of
  military identification cards

NAMALA FUNCTIONS CONT'D

- Maintain Service, Medical, and Dental

  Records
- Effect decisions of NMCCA, CAAF,

  USSC as directed by JAG
- Effect clemency action as decided by

  NC&PB
- Provide info as requested by Congress, DFAS, NCIS, etc.

STAFFING

NAVY

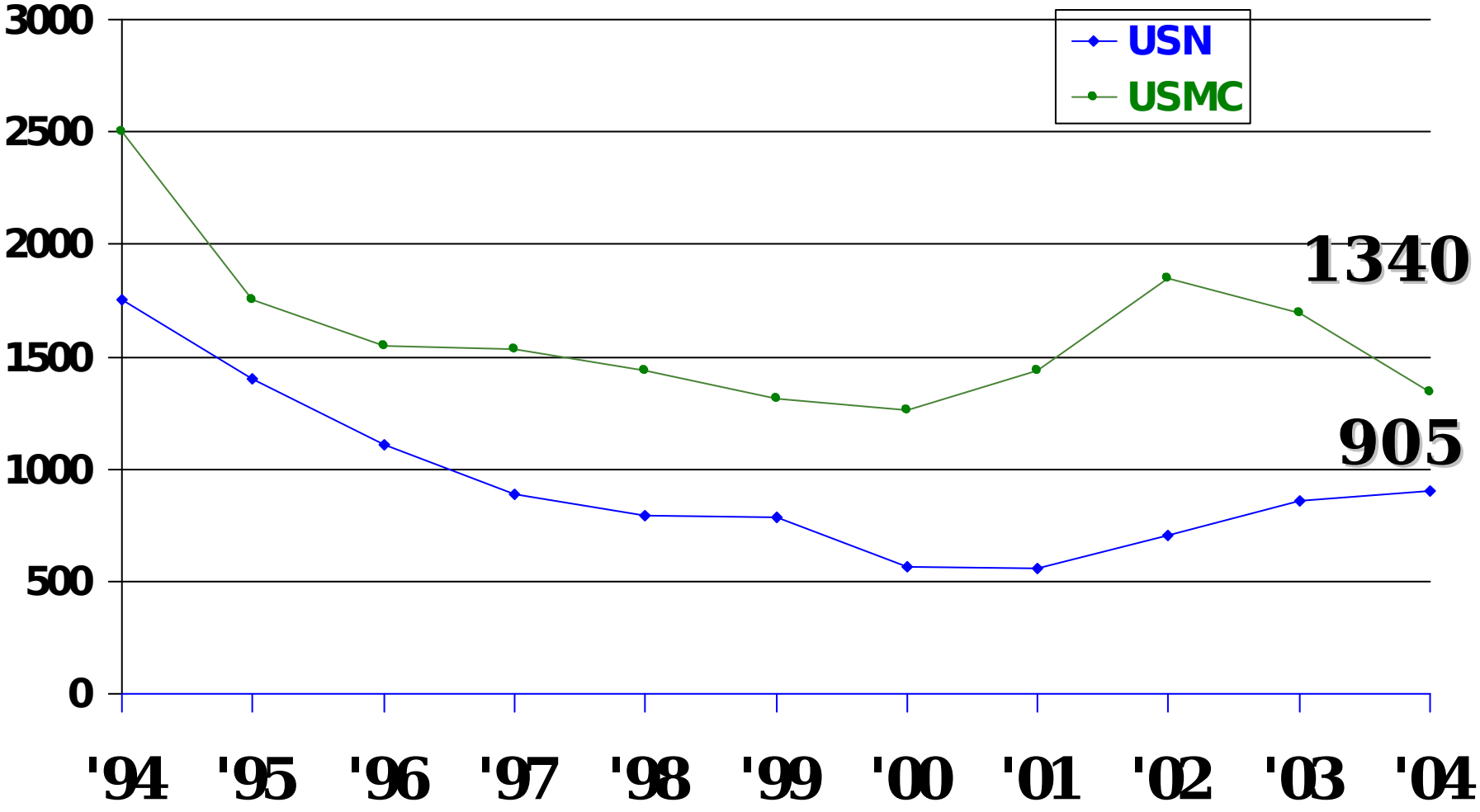
LCDR
PN2
PNSN
GS-6
GS-5
GS-5

MARINES

Capt
Gunny
SSgt
2 Sgts
LCpl

Appellant Population

2245 as of 20 Feb 04



APPELLATE LEAVE?

(SECNAVINST 1050.1A)

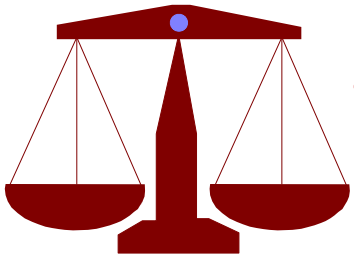
- Defined: Required or permitted leave for members awaiting review of a punitive discharge or dismissal.
- Policy: Use required or voluntary (permitted) leave to aid in removing from the presence of the active force, expeditously, those members being punitively discharged or dismissed

Appellate Leave

Voluntary/Request vs Involuntary/Mandatory

- CA has not acted
- Punitive Discharge is adjudged
- Confinement is completed
- Requested by member

- CA has acted
- Punitive Discharge is adjudged
- Confinement, parole, & supv. released completed
- CA has directed



APPELLATE REVIEW OVERVIEW

Basically……

- **Court of Criminal Appeals (NMCCA)**
- **Court of Appeals for the Armed Forces (CAAF)**
- **Supreme Court**

Appellant “Entitlements”

- MOST active duty benefits and privileges

- Exceptions to entitlements:

  - No Space-A Travel

  - Appellants W/O dependents (INCONUS) do not rate final shipment of HHGs

  - **Restricted to CONUS while on Appellate Leave**

Post Courts Martial Goals

OPNAVINST 5810.4/JAGINST 5810.1

The goal is……

- Record of Trial to SJA: 25-30 days
- CA's Action Complete: 41-50 days
- Tracer Letter/Message to CA : 60 days
  - Follow-up to ISIC & OJAG at 90 days
  - Not required for USMC - HOWEVER
  - Recommend letter at 2 months, message at 3 months

TIMELINE OF DELAYS

- **Sentence Adjudged Date to CA's Action 6**
  - **Appellant remains attached to Unit**

- **CA's Action to Completed Review (NOCAR) 14**
  - **Appellant should belong to NAMALA at this point and off the Unit's Rolls**
  - **Continues to be entitled to Medical Benefits**
  - **Continues to be subject to the UCMJ**

- **NOCAR to SCMO to DISCHARGE 1**

- **Average total delay to discharge: 21**

***Measured in months**

***Based on OCT/NOV/DEC '03 Data**

IMPACT OF DELAYS

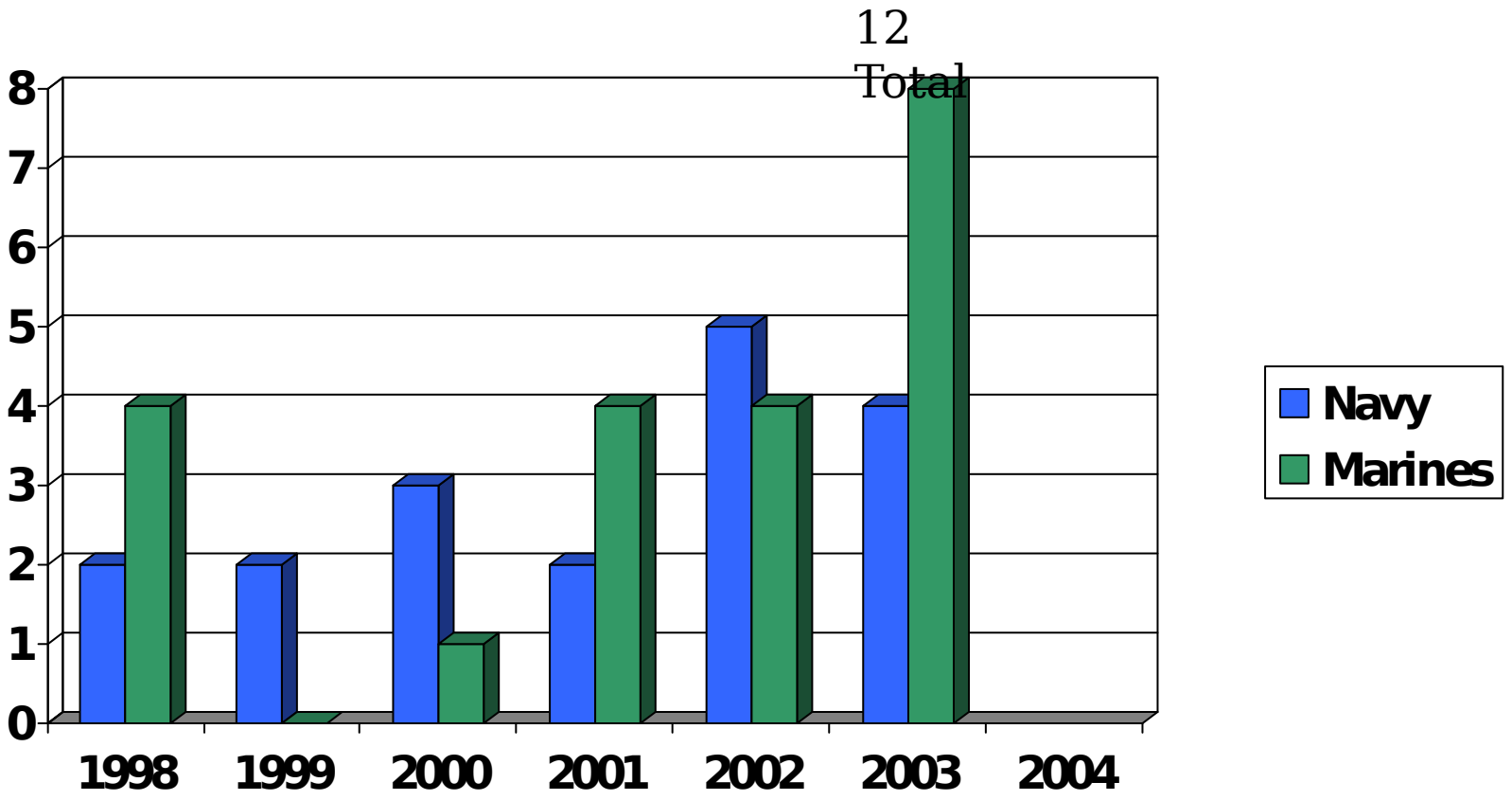
- Medical Benefits used
  - $1,091.17/ month / appellant *
  - Combined Medical & Emergency Dental
- Costs if death occurs while on Appellate Leave
  - SGLI @ $250,000.00
  - Death = Abatement resulting in restoration of Rights, Privileges & Property (Honorable Discharge + back pay and allowances) Death Gratuity, Burial, & possibly Survivors Benefit Plan

* Based on data from MMSO, Great Lakes, IL

IMPACT OF DELAYS

- Lost Record of Trial = Could result in **CM being set aside or reduced sentence**
- **CM set aside** = Pay and allowances restored, Pay grade restored, all fines and forfeitures restored, potential return to active duty, potential retirement (all Appellate Leave counts towards retirement)
- Over the past 8 years 150 ROTs were identified as being lost
  - Cost to government: Over $19 MILLION
  - **Those 150 or so were either retired or returned to active duty**

Death cases since 1998



REDUCING DELAYS

- **TRACK POST TRIAL PROCESS**
  - **Completion of CA's Action**
- **SEPARATIONS PHYSICALS**
  - **Try and obtain while mbr's confined!**
  - **Missing records, HIV Test, Level III, DNA**

REDUCING DELAYS

- **AUDIT OF RECORDS**
  - **Service Record closed out properly**
  - **Microfiche ordered and new record created if lost**
  - **Follow Appellate Leave Checklists before mailing**
  - **DNA Sample taken & annotated in Service Record!**
  - **Sex Offender Registration Form in Service Record!**

The Appellate Leave Checklist

- You can find it at the NAMALA website.
- Once obtained staple this form to the front of the SRB.
- Ensure this information is completely filled out. Don't "pencil whip" the sections. If all actions listed are completed there won't be any problems with the record.
- Ensure that the checklist is reviewed by a SNCO before it is mailed to NAMALA
- This checklist will help us to contact the

COURT-MARTIAL TAKES PLACE AND REQUEST FOR APPELLATE LEAVE IS INITIATED/RECEIVED:

- **Review MCO 1050.16_**

The order can be found on the HQMC website under orders/directives. A link can also be found on our website at **hqinet001.hqmc.usmc.mil/namala**

- **Open a case folder!!!!!**

Make sure a copy of everything involving that Marine and his/her court-martial are placed in that folder including a copy of the SRB.

- **Ensure a separation physical is scheduled/completed to include a HIV test.**

This should be done prior to the Marine going into the brig. Stay on the medical staff to get the result.

- **Schedule Marine for TAP class**

Most appellants are first term Marines however it is still our responsibility to take care of them as long as they are Marines.

- **Issue check-out sheet to the Marine**

Make sure someone is with the appellate to ensure he checks out of every area in a timely fashion.

- **Prepare page 11 entry to reflect acceptance/refusal of drug or alcohol treatment.**

If the appellate has charges dealing with alcohol or drugs make sure he is offered treatment. If drugs or alcohol were EVER an issue ensure he is offered treatment.

- **Notify Family Housing and ensure proper checkout**

NAMALA will not check to ensure they have vacated housing nor will we clean houses appellants leave in a filthy condition. If not done right the first time it will simply come back to your Command

APPROVAL FOR VOLUNTARYAPPELLATE LEAVE IS RECEIVED FROM THE COMMANDING GENERAL

- **Audit the SRB <u>with</u> the Marine present ensuring RED/SGLI are current**

NAMALA never has person to person contact with these Marines. It is very important to have all documentation updated before the Marine is transferred.

SGLI MUST be witnesses if the appellant elects to keep coverage. If it's not witnessed significant problems occur if the appellant dies.

- **Prepare or have prepared voluntary appellate leave orders.**

Only if the Marine elects to go on appellate leave or he has a pretrial agree that states he must go on

UPON RECEIPT OF VOLUNTARY APPELLATE LEAVE ORDERS

- **Retrieve ID cards from Marine and dependents (if applicable). ID card will be reissued with an expiration date 6 months from date of departure.**

This is the only tracking system NAMALA has for these appellants. They must keep their ID cards valid in order to use their benefits. When they call NAMALA to renew we update their info in our database.

- **Retrieve check-out sheet ensuring it has been properly completed.**
- **The appellant's OIC/SNCOIC must retrieve all uniforms and 782 gear per MCO P10120.28**
- **Ensure all time lost, To/From conf, To/From UA entries, reduction, and court-martial fines are run prior to running the To Apl Lv entry.**

- **Counsel SNM on election of SGLI coverage/termination of coverage and their indebtedness for premiums while covered on appellate leave.**

Appellants are in a non-pay status and as such are still charged premiums for SGLI. Upon final settlement DFAS will tally these premiums up when they are reconciling. If the appellate can't produce the monies owed then DFAS will send it to the IRS. In the end the Marine Corps loses money.

- **Have the Marine endorse the appellate leave orders prior to departing.**

- **Run "to app lv entry" (annotate # of days accrued leave rounded up to nearest whole #)**

Double check and make sure there is nothing left to do. Slide

UPON RECEIPT OF CA'S ACTION (COURT-MARTIAL ORDER)

- **'Duplicate original' is filed on document side of SRB/OQR**
- **'Certified true copy' is filed in the legal case file/office case folder**
- **If member is on voluntary appellate leave, send a change of status notification to the appellant.**

See MCO 1050.16_ for an example

- **Prepare page 13 (original to SRB/OQR, copy in case folder and another copy made to CMC (MMSB)**

- **Place copies of the Vol/Invol Orders, change of status notification, physical, CA's action/court-martial order on document side of SRB.**
- **Forward SRB/OQR and health/dental record to NAMALA.**
- **Check feedbacks for joins. Contact NAMALA to ensure join was done DSN 325-0100/03/04**

Occasionally the force join doesn't show up on the feedbacks so be sure to contact us so that we can confirm join or fix any error that may exist.

D UPON RECEIPT OF SUPPLEMENTAL COURT-MARTIAL ORDERS/SUPERVISORY AUTHORITY ACTION (DISCHARGE AUTHORITY)

If your command failed send the record after the CA acted and before the Court of Criminal Appeals has completed appellate review your Command will be responsible for completing the discharge.

Be sure to contact NAMALA if you have any questions or require assistance.

DO NOT SEND THE PAPERWORK AND RECORD BACK TO NAMALA. WE WILL ONLY SEND IT BACK TO YOU FOR ACTION.

Once the CA has acted this doesn't mean another entry must be ran on diary. If the Marine is already on appellate leave the appropriate paperwork must be placed in SRB and mailed to NAMALA.

If the Marine isn't already on voluntary appellate leave upon receipt of the CA's action be sure that **Involuntary Appellate Leave/Transfer by SRB** (**Encl 4 in MCO 1050.16A**)Orders are done vice **Notification of Assignment to Involuntary Appellate Leave (Encl 3 IN MCO 1050.16A)**

The Notification letter is only used when the appellate is already on voluntary appellate leave.

Also, you must ensure that the appellant receives a copy of the court-martial order with the CA's action.

What does NAMALA look at when they receive a SRB from a command?

We……

- Ensure that the SRB is in the correct order in accordance with the IRAM and that all standard pages are present.
- Ensure Appellate Leave Orders are correct.
- Ensure that the CA's action is present and that the punitive discharge was approved.
- Check MCTFS to ensure the 'to ap lv' entry, rank reduction, and time lost have posted correctly. (Using the QCAC and S601 screens)

NAMALA POC INFORMATION

Things have changed since Isabel hit……

Commanding Officer	**LCDR Rhoades**	**685-0101**
Executive Officer (until Jul '04)	**Capt Cox**	**685-0102**
SNCOIC	**GySgt Gibbs**	**685-0103**
PersChf (until May '04)	**SSgt Dixon**	**685-0106**
LPO	**PN2 Maraghy**	**685-0111**

CLERKS

Sgt Sowell K. E.	**685-2006**	**PNSA Zoller**	**685-0108**
PN2 LCpl Fobanjong	**685-0134**	**Ms. West**	**685-0112**
Ms. McKinney	**685-0100**	**Sgt Oxendine**	

- **ADDRESS**: Commanding Officer

  Navy and Marine Corps Appellate Leave Activity

  716 Sicard Street SE Room 46

  Washington, DC 20374-5086

- **MSG PLAD** RULSNDT NAMALA (DMS)

  NAMALA WASHINGTON DC (MDS)